IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 13575 of 2005

Between:

K. Raghavender Reddy, S/o. Late K. Kishta Reddy,
R/o. 2-2-474/6 Bagh Amberpet, Hyderabad.

..... PETITIONER

AND

1 The Divisional Manager, I B P Co. (Indo Burma Petroleum Corporation Limited), having its Regional Office at 9-1-83 & 84 Sarojini Devi Road, Secunderabad.
2 Municipal Corporation of Hyderabad at Tank Bund Road, Hyderabad, rep. through its Commissioner
3 The Commissioner of Police, Hyderabad.
4 The Divisional Fire Officer, Fire Services, Andhra Pradesh, at Hyderabad.
5 The Deputy Chief Controller of Explosives, Hyderabad.
6 P. Gourishankar, S/o. Not known to the petitioner,
R/o. H.No. P-11, Srinagar Colony, Tirumalagiri, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ in the nature of WRIT OF MANDAMUS or any other appropriate Writ or Writs, order or Direction, declaring and setting aside the Licence granted by first respondent in favour of Sixth respondent for running Retail Outlet of Petroleum in Sy.No.7 & 8 of Amberpet, Mousarambagh Road, Hyderabad for selling petroleum products, as illegal and arbitrary, Award costs and pass such other or further orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.H.VENUGOPAL

Counsel for the Respondent No.1 : MR.DEEPAK BHATTACHARJEE

Counsel for the Respondent No.2: Mr. Ganta Rama Rao,

Counsel for the Respondents 3 to 5: G.P. for Home &

Counsel for the Respondent No.6: Mr. N.Sreedhar Reddy

The Court made the following :

ORDER:

This writ petition is filed by the petitioner aggrieved by the grant of permission to the 6th respondent for establishing a retail outlet of petroleum products in Sy.Nos. 7 & 8 of Amberpet, Moosarambagh Road, Hyderabad.

2. According to the petitioner, his premises is abutting the disputed premises, where the permission was granted by the 1st respondent for establishing a retail outlet of petroleum products. It is stated that the petitioner has set up a function hall in the premises, and his grievance is that his kitchen is abutting the neighbouring premises, where the proposed petroleum products retail outlet is to be established by the 6th respondent. As the kitchen is abutting the said premises, there is every likelihood of danger of causing fire explosion in view of the kitchen and petrol side by side. Therefore, the petitioner sought for quashing the permission that was granted to the 6th respondent for establishing a retail outlet of petroleum products.

3. The learned counsel for the petitioner also relied upon Bye-Law-32 of Building Bye-Laws of Hyderabad Corporation contending that a distance of 15.24 meters has to be left out without any constructions from the residential building while establishing an outlet of petroleum products. According to the learned counsel, the respondents are not complying with the said Bye-law by leaving the specified distance. Therefore, even on that ground, the respondents shall be restrained from setting up a retail outlet of petroleum products and accordingly sought for setting aside the license granted by the 1st respondent in favour of the 6th respondent.

4. The learned counsel appearing for the 1st respondent contended that the Corporation as well as the authorities concerned, such as Fire Department, Explosives etc., verified the application of the 6th respondent for the grant of license for establishing a retail outlet of petroleum products, and after satisfying the

requirements in accordance with law, the license was granted in favour of the 6th respondent. Therefore, there are no merits warranting interference. The learned counsel also contended that the distance between the kitchen of the function hall set up by the petitioner is 80 feet, but only for the purpose of raising an objection, photographs are filed showing that as if the kitchen is abutting the compound wall of the premises in question. Therefore, the learned counsel sought to dismiss the writ petition.

5. The learned counsel appearing for the 6th respondent supported the stand of the 1st respondent and sought for dismissal of the writ petition.

6. Heard both the learned counsel and considered the material on record.

7. Admittedly, the application of the 6th respondent for the grant of license by the 1st respondent was considered by the respondents 2 to 5 before granting the license for setting up of the retail outlet, and after satisfying all the requirements the license was granted in favour of the 6th respondent for establishing the same. Now the grievance of the petitioner is that abutting the said site, where the retail outlet of petroleum products is going to be established by the 6th respondent, his function hall is located and in fact the kitchen of the said function hall abuts the site in question. In view of the closeness of the kitchen located to the retail outlet of the petroleum products, there is every possibility of causing explosion of fire endangering the occupants of the function hall. Therefore, it is not proper and just to allow the 6th respondent to establish the retail outlet of the petroleum products. But, however, the petitioner was unable to satisfy either as to the location of the kitchen or even the requirement of compliance of Byelaw-32 of the Byelaws of the Corporation. Admittedly, the petitioner's premises is not a residential, but a non-residential premises, which is being used as a function hall for conducting the parties and ceremonies. Therefore, it could not be concluded as residential house for compliance of Byelaw 32. The petitioner could not place any other rule or provision, which prohibits the establishment of retail outlet of the petroleum products in the proposed site by the 6th respondent. Therefore, the writ petition is devoid of merit and the same is liable to be dismissed.

8. Accordingly, the writ petition is accordingly dismissed. No costs.

S.Ananda Reddy, J.

Dt. 27.06.2005

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To

1. The Commissioner of Police, Hyderabad.
2. The Divisional Fire Officer, Fire Services, Andhra Pradesh, Hyderabad.
3. The Deputy Chief Controller of Explosives, Hyderabad.

4. 2 CD copies.

5. The Commissioner, MCH, Hyderabad.

HON'BLE MR. JUSTICE S. ANANDA REDDY

W.P. NO. 13575 OF 2005

ORDER

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